

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

**FRED HANEY, MARSHA MERRILL,
SYLVIA RAUSCH, STEPHEN SWENSON,
and ALAN WOOTEN, Individually and on
Behalf of All Others Similarly Situated,**

Plaintiffs,

vs.

**GENWORTH LIFE INSURANCE
COMPANY and GENWORTH LIFE
INSURANCE COMPANY OF NEW
YORK,**

Defendants.

Civil Action No. 3:22-cv-00055-REP

CLASS ACTION

**NOTICE OF FILING UNDER SEAL PURSUANT TO THE HEALTH INSURANCE
PORTABILITY AND ACCOUNTABILITY ACT PRIVACY RULE
(45 C.F.R. PART 160 ET SEQ. AND 45 C.F.R. PART 164 ET SEQ.)**

Pursuant to Local Civil Rule 5(B), Named Plaintiffs and Defendants (collectively, the “Parties”) jointly hereby give notice that they have on this date filed under seal the following documents with the Court:

- Exhibits to the Declaration of Michael J. Duvall in Support of Named Plaintiffs and Defendants’ Supplemental Brief in Response to the Court’s November 17 and 21, 2022 Orders Regarding Class Member Gary Davis.

As a health plan,¹ which is a covered entity² under the Health Insurance Portability and Accountability Act (“HIPAA”), the HIPAA Privacy Rule requires that Genworth protect individually identifiable health information³ of its policyholders concerning, *inter alia*, “past, present, or future payment for the provision of health care to an individual.” 45 C.F.R. § 164.502(a) (“A covered entity or business associate may not use or disclose protected health information, except as permitted or required by this subpart or by subpart C of part 160 of this subchapter.”). For this reason, Plaintiffs have redacted or filed under seal any information

¹ 45 C.F.R. § 160.103 (defining “health plan” as “an individual or group plan that provides, or pays the cost of, medical care” and includes “an issuer of a long-term care policy, excluding a nursing home fixed indemnity policy”).

² 45 C.F.R. § 160.103 (defining “covered entity” as, *inter alia*, “[a] health plan”).

³ 45 C.F.R. § 160.103 (defining “individually identifiable health information” as “information that is a subset of health information, including demographic information collected from an individual, and (1) ***Is created or received by a*** health care provider, ***health plan***, employer, or health care clearinghouse; and (2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or ***the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual;*** or (ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.”) (emphasis added).

related to the coverage and benefits of the Objectors' Genworth policies, including information related to the cost and/or value of their coverage and benefits.

DATED: November 23, 2022

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 23rd day of November, 2022, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF System, which will send a notification of such filing to all counsel of record. I also caused the foregoing to be sent by email to Mr. Davis at gmdavislaw@gmail.com.

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